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July 25, 1990

Steve Siegel  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
230 South Dearborn Street  
Chicago, Illinois 60604  
Mail Code: 5CS-TUB-3

Re: NL Industries/Taracorp Site  
Madison Scale Co., Inc.

Dear Mr. Siegel:

I received the information from your agency concerning how your organization has connected Madison Scale Co., Inc. of Madison, Wisconsin to the NL Industries/Taracorp Site dumping problem. Mr. Siegel, as the invoices indicate, not only do all of the shipments originate in Madison, Illinois, but the actual name of the shipper varies from Madison Reclaim Yard, Scale, Madison Scale and Madison Scales. Based on these invoices, your agency has still had the audacity to accuse my client, Madison Scale Co., Inc. of Madison, Wisconsin, of shipping tons of scrap metal to the NL Industries/Taracorp Site.

Mr. Siegel, your agencies policy of not changing the list of possible defendants in this clean-up action, is unbelievable. Your agency, due to a failure to do proper research and an inability to trace a company from the freight bills, in effect, has decided to harass my client who is not connected to any shipping of scrap metal in Illinois. To compound the matter, you have indicated that you expect my client to incur unnecessary attorney's fees not only in defending himself in this matter, but in doing your agency's job, of investigating who the proper shipper of these scrap materials actually was. However, neither myself nor my client have any intention of doing any further extensive research into this matter. Rather, due to your agency's failure to attempt to rectify the unjustified listing of Madison Scale Co., Inc. of Madison, Wisconsin as a potentially responsible party for the clean-up of the NL Industries/Taracorp Site, we fully intend to seek all costs and fees which have been incurred in the investigation and defense of this matter under the Federal Equal Access to Justice Acts, 5 U.S.C.S. §503.

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Mr. Siegel, I understand that you personally are unable to change the policy within your company, however, there must be some way in which you can express our displeasure at having been involved in any way in this matter, and our dissatisfaction at the failure of your agency to look into a possible mistake on their part. Again, we would very much appreciate your agency doing a follow-up investigation in order to clear Madison Scale Co., Inc. of Madison, Wisconsin, and to obtain the actual shipper of the scrap metal as a possible defendant. In the long run, your agency is only going to have to back-track in these proceedings due to your failure to include the proper shipper of the waste metals from the very beginning of this action.

I would appreciate a response as soon as possible. If there is any information which we could provide you which will help clear up this mistake, we would do so upon your request.

Please call me if you have any questions regarding this letter.

Sincerely,

TOMLINSON, GILLMAN, TRAVERS & GREGG, S.C.

By:

*Robin Nelson* /ld  
Robin A. Nelson

RAN:ld

cc: Mr. Steve Ross